

REMARKS

In the application claims 29-39 remain pending. Claims 1-28 have been canceled without prejudice. Claims 29-39 have been added by amendment to more distinctly recite what is regarded as the invention. Support for the claims as added may be found in the application as originally filed and no new matter has been added.

The previously pending claims were rejected under 35 U.S.C. § 103 as being rendered obvious over Olsen (U.S. 6,137,479) as modified by Lu (U.S. 2003/0107552).

It is respectfully submitted that the claims as now presented cannot be said to be rendered obvious by the combination of Olsen and Lu.

In the rejection of the claims it was acknowledged that Olsen fails to disclose, teach, or suggest the claimed sensor. As such, it has also been acknowledged that Olsen fails to disclose, teach, or suggest the claimed using of a signal generated by the sensor to selectively enable either a first subset of a plurality of user interface buttons of a controlling device that are used to transmit commands to a PC or a second subset of a plurality of user interface buttons of the controlling device that are used to transmit commands to one or more appliances.

Considering now Lu, it is respectfully submitted that Lu, like Olsen, fails to disclose, teach, or suggest using a signal generated by a sensor to selectively enable either a first subset of a plurality of user interface buttons of a controlling device that are used to transmit commands to a PC or a second subset of a plurality of user interface buttons of the controlling device that are used to transmit commands to one or more appliances. Rather, Lu discloses using a sensor to enable first and second functions of a mouse wherein *both* functions of the mouse are used to send commands *only* to the PC. In one function of the mouse, e.g., when the mouse is sensed to be on a surface, commands are transmitted to the PC which are indicative of movement of the mouse over the surface. In the other function of

the mouse, e.g., when the mouse is sensed to be removed from a surface, commands are transmitted to the PC which are indicative of movement of the mouse in free space. In connection with these *PC limited*, mouse functions, Lu never suggests that it would also be desirable to use a sensed location of the mouse to selectively enable one of two distinct subsets of the buttons of the mouse, let alone one subset of a plurality of buttons for use in transmitting commands to a PC and another subset of a plurality of buttons for use in transmitting commands to one or more appliances. Furthermore, since Lu is not even concerned with controlling anything other than movement of a cursor and selections on a PC screen, it will be appreciated that Lu fails to even suggest any reason to “avoid inadvertent operations between computer and home appliances” which has been advanced as the motivation for modifying the system of Olsen in view of the disclosure within Lu.

From the foregoing, it is respectfully submitted that neither Olsen nor Lu provides the teachings necessary to support a *prima facie* case of obviousness. In this regard, it is evident that neither reference discloses, teaches, or suggest the desirability of providing a controlling device with a sensor which generates a signal indicative of a position of the controlling device relative to a surface and programming which uses the signal generated by the sensor to selectively enable either a first subset of keys used to command operations of a PC and a second subset of keys, distinct from the first subset of keys, used to command operations of one or more home appliances. By lacking such disclosure, teaching, or suggestion, it is respectfully submitted that any rejection of the claims based upon a combination of Olsen and Lu could only be arrived at through the impermissible use of hindsight reasoning, i.e., the impermissible using of the Applicants’ disclosure as a guide to pick and choose isolated elements from Olsen and Lu and to impermissibly provide the motivation for combining the elements so selected. Accordingly, it is respectfully submitted that the claims are allowable

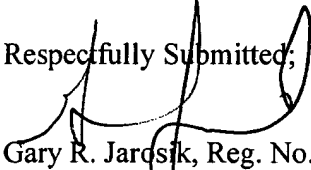
over the art of record. As such, it is respectfully requested that the rejection of the claims be withdrawn.

CONCLUSION

It is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the Examiner is respectfully requested. Should it be determined, however, that a telephone conference would expedite the prosecution of the subject application, the Examiner is respectfully requested to contact the attorney undersigned.

While it is not believed that any fees are due, the Commissioner is authorized to charge any fee deficiency to deposit account 50-2428 in the name of Greenberg Traurig.

Date: June 6, 2006

Respectfully Submitted;

By: Gary R. Jarosik, Reg. No. 35,906
Greenberg Traurig, LLP
77 West Wacker Drive, Suite 2500
Chicago, Illinois 60601
(312) 456-8449

GREENBERG TRAURIG, LLP

OPERATING ACCOUNT

77 WEST WACKER DRIVE, SUITE 2500

CHICAGO, IL 60601

312-456-8400

No. 010435

2-1
710

NOT NEGOTIABLE AFTER 90 DAYS FROM ISSUE

PAY

\$790.00

DATE

06/06/06

CHECK NO.

10435

AMOUNT

\$ ***790.00***

TO THE
ORDER
OF

Commissioner of Patents & Trademarks

TWO SIGNATURES REQUIRED FOR AMOUNTS OVER \$10,000.00
OPERATING ACCOUNT**BANK ONE**Bank One, N.A.
Chicago, IL

⑈010435⑈ ⑆071000013⑆

5330089549⑈

DATE

DESCRIPTION

REFERENCE

BALANCE

Check #: 10435

Vendor ID: 06185

Check Date: Jun 06/06

Disb DateDisbursement DescriptionAmount

06/06/06

US Patent and Trademark - Chicago

790.00

PAYEE: Commissioner of Patents & Trademarks; REQUEST#: 704426; DATE:
6/6/2006. 59489.035000 Fee for Req. for Continued Examination 97US1.

PLEASE DETACH BEFORE DEPOSITING

DATE

DESCRIPTION

REFERENCE

BALANCE

BEST AVAILABLE COPY